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ADOPTION PROCESS

ARTICLE 1.
PURPOSE; APPLICABILITY; RULES OF CONSTRUCTION

Section 1.1. Title.

These regulations shall be cited as the Zoning Ordinance and Auxiliary Development Code of Brunswick County, North Carolina.

Section 1.2. Authority and Purpose.

These regulations are adopted pursuant to the authority granted to Brunswick County by Chapter 153A, Article 18, of the General Statutes of North Carolina, in order to carry out the purposes listed below.

- (A) These zoning regulations have been designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, and to facilitate the adequate and economic provision of transportation, water, sewerage, schools, parks and other public facilities and services.
- (B) The Zoning Districts and maps have been made with due consideration of future growth, development, and change in land development according to objectives expressed in the most recently adopted Land Use Plan or more detailed plans or policies for the development of the County, as well as with due consideration of existing development and uses of land within Brunswick County.
- (C) These regulations and districts represent reasonable consideration of the character of the districts and their peculiar suitability for particular uses of land and have been enacted with a view to preserving the existing environment and/or assuring the development of a future environment that realizes the greatest possible use and enjoyment of land on individual properties. This purpose is balanced against the necessary protection of the values of buildings and land and the use and enjoyment of land on adjacent properties and with the objective of promoting and protecting the public welfare through the regulations of land use and the process of land development.
- (D) The Auxiliary Development Code portions of this chapter address Planned Unit Development plats in their various innovations including cluster and zero side yard set back platting, and are designed to encourage innovation in development patterns and diversification of uses and principal structures for efficiency, attractiveness, flexibility, and environmentally sensitive land use, whereby the public interest of the County is carefully protected and preserved.

Section 1.3. Jurisdiction.

These regulations govern the development and use of all land, waters, and structures in the unincorporated areas of Brunswick County which are outside of the zoning jurisdiction of any other governmental unit having equal land use regulatory authority. No building, structure, or land shall be used or occupied, or no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered, unless in conformity with all the provisions of these regulations and other applicable regulations, except as otherwise provided by these regulations. The regulations shall not apply to bona fide farms except that non-farm uses on farms are regulated herein.

Section 1.4. Division of the County into Zoning Districts; Official Zoning Maps.

The County is hereby designated in Zoning Districts. The Zoning Districts are shown on the official Zoning Map of Brunswick County, which is a part of this Ordinance.

- (A) The official Zoning Map may consist of one or more map sheets.
- (B) The original reproducible map or map sheets comprising the official Zoning Map as well as any successor maps shall be signed by the County Manager and attested by the Clerk to the Board of County Commissioners.
- (C) In the event of amendment of any Zoning District boundaries set forth on the official Zoning Map, the change shall be certified by the County Manager and attested by the Clerk to the Board of County Commissioners with note as to the amending ordinance number, the date of amendment, and the nature of the change.
 - (1) Rules for Interpreting District Boundaries. Where uncertainty exists with respect to the boundaries of the Districts as shown on the official Zoning Map, the following rules shall apply:
 - (a) Where District boundaries are indicated as following the center lines of streets, highways, or alleys, such center lines shall be construed to be such boundaries.
 - (b) Where District boundaries are indicated as approximately parallel to the center lines of streets or highways, such District boundaries shall be construed as being parallel thereto, and at such distance therefrom as indicated on the official Zoning Map. If no distance is indicated specifically on the Zoning Map, the scale of the map shall determine.
 - (c) Where District boundaries run to, but do not extend into water areas, and no separate Zoning District is shown over such waters and their minor

land areas, they shall be considered to run into such water areas in a straight line, continuing the prevailing direction of the boundary as it approaches water, until they intersect other District boundaries or the jurisdictional limits.

Boundaries which run through water courses, lakes, and other water areas, shall be assumed to be located midway in such water areas, unless otherwise indicated.

- (d) Where District boundaries are indicated as following platted lot lines, the lot lines shall be construed to be the District boundaries.
- (e) Where District boundaries divide platted lots or cross unsubdivided property, and where no specific dimensions are indicated on the official Zoning Map, the scale of the official Zoning Map shall control.
- (f) Where the street or property layout, or other physical features existing on the ground are at variance with the official Zoning Map, or where other uncertainties exist as to interpretation of the official Zoning Map, upon receipt of a written report from the Planning Board, the Board of Adjustment shall interpret the map in such a manner as to carry out the intent and purposes of this chapter.

Section 1.5. Clarification of Areas Under Water, and of Other Areas Not Elsewhere Classified.

All areas within the jurisdiction of the County which are under water and are not shown as included within any district shall be subject to all of the regulations of the District which immediately adjoins the water area. If the water area adjoins two or more Districts, the boundaries of each District shall be construed to extend into the water in a straight line until they meet the boundaries of another District or the jurisdictional limit.

All lands within the jurisdiction of Brunswick County which are not under water and are not shown as included within the limits of any district shall be considered to be in the R-7500-Residential District, until otherwise classified by amendment to this Chapter.

Section 1.6. District Regulations; Purposes and Matter Regulated; Application of Regulations; Schedule of District Regulations.

- (A) Purposes. The regulations and restrictions herein prescribed are in furtherance of the general purposes set forth in Section 1.2 and have the specific objectives of:
 - (1) Reducing, or eliminating, elements of present and future harmful incompatibility between uses permitted in the same District or neighboring Districts;

- (2) Segregating uses which cannot be made reasonably compatible into separate Districts; and
 - (3) Encouraging and promoting orderly development, according to the needs of the general public, as set forth in most recently the Land Use Plan and detailed plans and policies.
- (B) Matters regulated. Matters regulated include:
- (1) Use of land and water for trade, industry, residence, parking, traffic and other purposes; **Rev. 06/05/06**
 - (2) Size of lots, yards, and other spaces;
 - (3) Maximum coverage of lots by buildings and other structures, and by uses;
 - (4) Height, size, location, erection and construction, reconstruction, alteration and use of buildings and other structures for trade, industry, residence, and other purposes; and
 - (5) Density of population.
 - (6) Vehicle Trip Generation for Minor Subdivisions, Major Subdivisions, Planned Unit Developments, duplexes, triplexes, and other multi-family structures. **Rev. 06/05/06**
- (C) Application of Regulations. Except as hereinafter provided, no structure shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any structure or land be used or occupied which does not comply with all the District regulations established by this Chapter for the District in which the building or land is located. No part of a yard or other open space, or parking or loading space required for any building for the purpose of complying with the provisions of this Chapter, shall be included as part of a yard or other open space, or parking or loading space similarly required for another building.

Excepting on bona fide farms, in no case shall there be more than one main structure and the customary accessory structures on one lot, except as otherwise provided. No yard, or lot now existing, or hereafter created, shall be reduced in dimensions or area below the minimum requirements herein for the District in which located. No structure shall be erected on a lot heretofore or hereafter reduced below minimum dimensions or area required by law; provided, however, this requirement shall not apply in any District in which a dwelling unit is permitted or permissible to a lot which was of record, either by

a plat or by a deed describing the lot by metes and bounds or otherwise, in the Public Registry, Brunswick County, as of the effective date of this Chapter.

Within each District, regulations herein set forth shall be minimum regulations, and shall apply uniformly to each class or kind of building or land, and may specify: uses permitted, uses permissible if reasonable requirements of a special nature are met to reduce or eliminate harmful incompatibility, or uses or characteristics of uses prohibited.

- (D) Schedule of District Regulations. Except for regulations applying to more than one District, regulations for the individual Districts appear in the Schedule of District Regulations.
- (E) Traffic Impact Analysis (TIA). Within each District, the criterion for a TIA to be completed will apply uniformly to all permitted uses as part of any preliminary site plan if the proposed use will generate more than one hundred (100) vehicle trips during the peak hour or one thousand (1000) total new daily trips based on most recent trip generation rates by the Institute of Traffic Engineers (ITE). The TIA shall be prepared in accordance with scoping standards and guidelines approved by the North Carolina Department of Transportation (NCDOT) and Brunswick County. **Rev. 06/05/06**

Section 1.7. Exceptions to Applicability.

- (A) These regulations shall not be applicable or enforceable without the consent of the owner with regard to lots, buildings, or structures for which a building permit has been issued prior to the effective date of these regulations so long as the permit has not been revoked and/or is not revokable pursuant to N.C.G.S. Section 153A-362. If construction authorized by the permit is not started within six (6) months of the permit issuance, or after construction has commenced, if the work is discontinued for a period of twelve (12) months, the permit shall immediately expire pursuant to N.C.G.S. Section 153A-357 and any further work shall be subject to these regulations.
- (B) Any amendments, modifications, supplements, repeal, or other changes to these regulations and restrictions or the Zoning Maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses for which either 1.) a building permit has been issued prior to the effective date of the ordinance making the change, so long as the permit remains valid and unexpired pursuant to G.S. Section 153A-358 and the building permit has not been revoked pursuant to G.S. Section 153A-362, or 2.) a vested right has been established pursuant to Section 1.12 and such vested right remains valid and unexpired pursuant to Section 1.12. A permit issued pursuant to G.S. Section 153A-357 shall expire by limitation in six (6) months after the date of issuance if the work authorized by the permit has not been commenced, except that a permit shall not expire or be revoked because of the running time while a vested right under Section 1.12 is outstanding. If after commencement the work is discontinued for a period of twelve (12) months, the permit therefore shall immediately expire except

for a permit issued under Section 1.12. Upon issuance of a building permit under Section 1.12, the provisions of G.S. Section 153A-358 and G.S. Section 153A-362 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under the section is outstanding. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

- (C) As to future amendments to this Zoning Ordinance, these regulations shall not be applicable or enforced without the consent of the owner with regard to uses previously approved under a Special Exception. Development of these uses will be governed by the previously approved site plans of such Special Exceptions.

Section 1.8. Relation to Other Ordinances.

It is not intended that this Chapter in any way repeal, annul or interfere with the existing provisions of any other law or ordinance. In addition, it is not intended that this ordinance in any way repeal, annul or interfere with any rules, regulations or permits which were legally adopted or issued under previous ordinances for the use or development of land or structures. Finally, it is not intended that this ordinance interfere with any easements, covenants, or other agreements between parties besides the County of Brunswick. However, if the provisions of this Chapter impose greater restrictions or higher standards for the use of a building or land, or for yards or size of structures than is called for by other ordinances, permits, easements or agreements, then the provisions of this Chapter will take precedence over the others and will control the use of development, except as otherwise provided above under Section 1.7.

Section 1.9. Relation Of This Chapter To Any Pending Actions.

The adoption of this Chapter shall not affect any action, suit or proceeding which may be pending at the time the Chapter is adopted. With respect to the subject matter of any pending action, all rights, obligations and liabilities are still valid and may be preserved and enforced.

Section 1.10. Separability.

If any section of specific provisions or standards of these regulations or any Zoning District boundary that is hereby established or may exist in the future is found by a court of competent jurisdiction to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or District Boundary of these regulations, except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

Section 1.11. Effective Date.

These regulations shall become effective upon further action by Brunswick County Board of Commissioners.

Section 1.12. Procedures For Establishing A Vested Right.

Pursuant to N.C.G.S. Section 153A-344.1, Vesting Rights, as of the effective date of this Chapter, a vested right to undertake and complete the development and use of property under the terms and conditions as approved pursuant to this Chapter shall be established with respect to any property upon the approval pursuant to this Chapter of a Special Exception for a site specific development plan or a phased development plan.

The approved plans and conditions for a Special Exceptions constitute, for purposes of N.C.G.S. Section 153A-344.1, site specific development plans.

A right which has been vested as provided for in this section shall remain vested for a period of three (3) years. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the Board of Adjustment or the Planning Board upon approval of the modification and or amendment. A vested right obtained under this section is not a personal right, but shall attach to and run with the subject property. A right which has been vested as provided in this Section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

Section 1.13. General Rules of Construction.

For the purposes of these regulations, the following rules of construction shall apply:

- (A) These regulations shall be construed to achieve the purposes for which they are adopted.
- (B) In the event of a conflict between the text of these regulations and any caption, figure, illustration, or table, the text of these regulations shall control.
- (C) In the event of any conflict in limitations, requirements, or standards applying to an individual use or structure, the more stringent or restrictive provision shall apply.
- (D) The words "shall", "must", and "will", are mandatory in nature, implying an obligation or duty to comply with the particular provision.
- (E) The word "may" is permissive in nature, except when the context of the particular use is negative, then it is mandatory.
- (F) Words used in the present tense include the future tense.

- (G) Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.
- (H) Words used in the masculine gender include the feminine gender.

Section 1.14. Fractional Requirements.

When any requirement of these regulations results in a fraction of a dwelling unit or other measurement, that fraction will be disregarded and the next highest whole number shall apply.